

STUDIO CITY

BUSINESS DISTRICT

www.thescbd.com

October 16, 2018

Via E-Mail & U.S. Mail

Los Angeles, CA

Re: Letter of September 28, 2018

Dear

The Studio City Business District ("BID") acknowledges receipt of your letter dated September 29, 2018, in which you complain of alleged Brown Act violations and demand that the BID "cease and desist" the following alleged violations: (1) requiring identification to attend BID Board meetings; (2) providing an inadequate description of "personnel matters" discussed in Closed Session; (3) failing to report "actions taken" in the Closed Session on September 17, 2018; and (4) at least a majority of the Board communicating via email regarding a matter which you claim is within the BID's subject matter jurisdiction. Please accept this response on behalf of the BID.

The BID has its office and holds its Board meetings at the CBS Studio Center, Studio City, CA 91604 ("the CBS Lot"). The CBS Lot is a full-service production facility with eighteen sound stages and 210,000 square feet of supporting office space; on any day there are as many as 5,000 individuals working on the CBS Lot. For the security of the individuals and facilities on the CBS Lot, everyone who wishes to enter must check-in at a security guard station, including me and the Board members, and a determination is made that presence on the CBS Lot is authorized. The BID has no control over the CBS Lot security and has no access to any records maintained by the CBS Lot security. The situation is no different than other secure locations where Board meetings are held; for example, there is no requirement to provide identification to attend the Los Angeles City Council meetings, but there is a requirement to provide identification to enter City Hall.

The BID does not require identification to attend a Board meeting. Moreover, the BID has never had an issue with the public entering the CBS Lot to attend a Board meeting. In the particular case where you attempted to enter the CBS Lot without providing identification to the CBS Lot security on September 17, 2018, once you indicated that you wanted to attend the BID Board meeting, the security guard at the entry point contacted the BID and you were escorted to the BID Board meeting.

With respect to your claim regarding the Closed Session held on September 17, 2018, you claim that the Closed Session Agenda was inadequate because it reflects "personnel matters." California case law makes clear that California Government Code § 54957 authorizes Closed Session for "personnel matters." "The purposes of the personnel exception are (1) to protect employees from public embarrassment and (2) to permit free and candid discussions of personnel matters by a local governmental body." *Fischer v. Los Angeles Unified School Dist.*, 70 Cal. App. 4th 87, 96 (1999).

Further, California Government Code § 54957 only requires Agenda notice to identify an employee that is being considered in Closed Session with respect to complaints and charges against that employee; nothing else contained in California Government Code § 54957 requires Agenda notice identifying an employee or title of an employee. And contrary to your representation in your letter that California Government Code § 54954.5 provides language that "must be included in the agenda descriptions," in fact, Section 54954.5 provides descriptions that "may" be used—the standard is substantial compliance, which was obviously met here. Furthermore, even Section 54954.5 never requires the identification of an employee, and in some circumstances, not even the title. The "personnel matters" exception was appropriately invoked under the circumstances here.

Moreover, you were expressly told, by your own admission, that there would be no reporting out after Closed Session because no action would be taken. Specifically, "I asked executive director John Walker whether the board would reconvene in open session to report any actions taken in the closed session. He told me that they would not. I asked why and he told me that there were to be no actions to report so they weren't required to reconvene." Mr. Walker's statements to you were accurate and legal.

To be clear, the statute you have cited in your letter, California Government Code § 54957.7, expressly provides that reporting out is only required if "action taken." Even then, there are even more limited circumstances when in fact "action taken" must be reported out verbally at the same agendaized meeting. Since no action was taken, there was no requirement for a report of "action taken" after Closed Session.

Finally, with respect to the emails of John Walker on May 23, 2018, Mr. Walker is the Executive Director of the BID and not a member of the legislative body of the BID. His communications to the Board, in whole or in part, are never a Brown Act violation.

Moreover, Mr. Walker's communications with the Board were not on a topic within the BID's jurisdiction or on which the BID was authorized to take action. To the contrary, Mr. Walker's email was for informational use only ("FYI") about a feasibility study being conducted by the City on City-owned property, not the property of shareholders within the BID. He

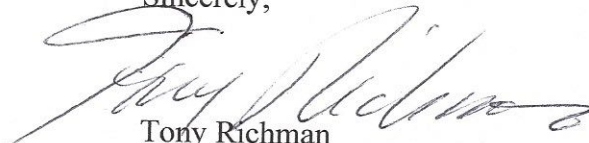
specifically advised the Board members that if they wanted to offer their opinions personally, they should write their congressman directly; there was no discussion nor even an inference that the BID Board should act on or comment on the subject of Mr. Walker's email as a Board. In fact, at the time Mr. Dunn and I responded with an inquiry to Mr. Walker's email, unclear about the nature of Mr. Walker's email, Mr. Walker made clear that the subject of his emails was not an issue that was before the Board or within the jurisdiction of the BID. Board members who are shareholders in the BID do not give up their property rights simply because they volunteer their services to the BID, and they have every right to communicate with their elected representatives.

Notwithstanding the fact that there has been no violation of the Brown Act, in order to avoid unnecessary litigation, the BID hereby unconditionally commits to the following:

- (1) Members of the public will not be required to provide identification to attend Board meetings.
- (2) The Closed Session Agenda will provide a "brief general description" of personnel matters.
- (3) A majority of the Board members will not communicate via email regarding matters within their subject matter jurisdiction.

The BID may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address or addresses you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, you will have the right to commence legal action pursuant to California Government Code § 54960. That notice will be delivered to you by the same means as this commitment, or may be mailed to an address that you have designated in writing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Richman".

Tony Richman
Board President